DIRECT INVESTIGATION REPORT

EFFECTIVENESS OF ADMINISTRATION OF TEMPORARY CLOSURE OF METERED PARKING SPACES DURING ROAD WORKS CARRIED OUT BY PUBLIC UTILITIES

May 2012

Office of The Ombudsman

Hong Kong

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EXECUTIVE SUMMARY

Direct Investigation
Effectiveness of Administration of Temporary Closure of Metered Parking Spaces during Road Works carried out by Public Utilities

Background

We noted from complaint cases that some metered parking spaces have been closed for periods much longer than actually necessary for the approved road excavation works. In view of the limited number of metered parking spaces and the high demand for such facilities, we consider that closure should be kept to the minimum.

2. Our preliminary examination showed some deficiencies in Transport Department's ("TD") and Highways Department's ("HyD") procedures and practices in the administration of temporary closure of metered parking spaces involving road excavation works. In late 2010 and early 2011, TD and HyD initiated some enhancement measures. However, there were still many cases of non-compliance. Hence, The Ombudsman initiated this direct investigation on 15 July 2011 to examine:

(1) deficiencies in administering temporary closure of metered parking spaces during road excavation works carried out by public utilities;

(2) effectiveness of the enhanced measures introduced by TD and HyD in 2010 and 2011 to monitor temporary closure of metered parking spaces during road excavation works carried out by public utilities; and

(3) other measures, if any, for further improvement.

Procedures for Processing Application for Temporary Closure of Metered Parking Spaces

3. Utility undertakers ("UUs") which need to carry out road excavation works have to apply to HyD for excavation permits ("XPs"). HyD will assess whether the excavation works will have serious traffic impact and, if so, require UUs to submit temporary traffic management ("TTM") proposals to TD and the Hong Kong Police Force ("HKPF") for assessment and approval. If temporary closure of metered

parking spaces is required, the UU concerned should include such proposal in the TTM submission, and TD will comment on its acceptability. HyD will then determine the overall XP period, taking into account the TTM endorsed by HKPF and TD, and issue XP to the UU concerned.

4. With the overall XP period given, the UU concerned will liaise with TD on the period of closure of metered parking spaces before formally applying for the closure. TD will assess the acceptability of the proposal, taking into consideration various traffic factors and direct adjustments as required. Upon receipt of the formal application, TD will approve or modify the closure period where necessary, and issue a Works Request to its contractor to effect the closure.

Monitoring before September 2010

5. Prior to September 2010, there was no monitoring of UU's actual occupation of temporarily closed metered parking spaces. Although HyD conducted regular audit inspections on active sites to check their compliance with XP conditions, it did not cover any unnecessary closure of such parking spaces, as reflected in one of the four case studies of the investigation – **Case 1**, in which six parking spaces were closed for one month for road works that required only one week to complete.

Enhanced Measures introduced in 2010 and 2011

HyD's Audit Inspections

6. Starting from late September 2010, HyD agreed to notify TD of unnecessary closure of such parking spaces discovered during audit inspections on a trial basis.

TD's Interim Measure

7. In November 2010, as an interim measure, TD started to remind UUs of the need to report and to arrange re-opening of the parking spaces in case of late start of works by putting remarks to that effect in the Works Request copied to UUs.

TD's Routine Inspections

8. In February 2011, TD began to exercise some control over the implementation of temporary closure of metered parking spaces by monitoring UU's work progress through conducting routine site inspections shortly after the start of the closure period and periodically thereafter, in addition to HyD's audit inspections.

HyD's New XP Condition

9. In February 2011, HyD also promulgated the inclusion of a new condition in para. 26 (D) of the XP conditions requiring UUs to obtain TD's prior approval for occupying parking spaces for road works. This new condition also serves to remind UUs of their obligation to obtain TD's prior approval for temporary closure of such parking spaces to be affected by their road excavation works.

TD's New Approval Conditions

10. From 1 April 2011 onwards, TD started to issue formal approval letters with specified Approval Conditions to UUs for closure of metered parking spaces, requiring UUs to confirm to TD the scheduled start date of closure in advance, to inform TD in case of early completion of works and to submit updated site photos regularly to TD for checking work progress.

Case Studies

11. Four cases were studied, which illustrated the extent (sometimes more than three weeks) of unnecessary closure of metered parking spaces due to road excavation works. The nature of non-compliance included late start and/or early completion of works or cancellation of works without informing TD to re-open the parking spaces. **Case 1** occurred in 2009 when there was no monitoring on the subject. **Cases 2, 3** and **4** took place at different periods after introduction of the enhanced measures in 2010 and 2011.

Our Observations

Demand for Metered Parking Spaces

12. According to TD, the average utilisation rates[1] of metered parking spaces for Hong Kong, Kowloon and New Territories and in the busiest Districts of these three Regions during the period of August to November 2010 during weekdays and holidays were:

		Weekdays (%)	**Holidays (%)**
Hong Kong	Region	53.73	58.39
	Causeway Bay	71.30	75.88
Kowloon	Region	59.38	64.33
	Yau Ma Tei	79.57	73.58
New Territories	Region	37.95	47.06
	Tsing Yi	85.38	58.19

However, the actual utilisation rate in busy areas could be much higher, particularly in busy hours. Our recent site inspections at two busy locations of **Cases 1** and **4** of the case studies revealed much higher utilisation rates, ranging from 89.6% to 97.3%.

13. With a ratio of about one space to 35 licensed vehicles[2], the demand for metered parking spaces is very high, especially in busy locations and during busy hours. TD has the responsibility to keep the closure of such parking spaces to the minimum in order to reduce unnecessary inconvenience to drivers and wastage of public resources.

Monitoring after enhanced measures introduced

14. HyD's audit inspection (**para. 6**) on sites involving closure of metered parking spaces was a positive measure, resulting in cases of non-compliance being identified.

15. TD's interim measure (**para. 7**) was, however, not drawn to the attention of all UUs. After the introduction of the measure, parking spaces were still found to be closed unnecessarily due to late start of road works, as reflected in **Case 2**.

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1 *This is the percentage ratio between the number of space-hours occupied and the total number of space-hours provided.*

2 *According to TD, as at September 2011 there were 18,008 metered parking spaces and 624,438 licensed vehicles in Hong Kong.*

16. Regarding TD's new Approval Conditions (**para. 10**), the consequence of non-compliance with the requirements of informing TD about early completion of works and submitting regular site photos was unclear. We consider it necessary for TD to spell out the consequence, whether by refining its Approval Conditions or by otherwise conveying the message to UUs.

17. TD's monitoring of the UU's work progress after implementation of the enhanced measures remained unsatisfactory. As shown in **Case 4**, the UU did not comply with the Approval Conditions in submitting updated site photos but TD failed to discover this. We consider it important for TD to check closely the submission of site photos by UUs. If necessary, TD should consider setting up a computerised database for this purpose.

Approval of Duration of Closure

18. **Cases 1, 2 and 3** were typical cases involving "late start" and "early completion" of works without informing TD to re-open the parking spaces. Also, actual works took only 7 days to complete versus 31 days approved for temporary closure of parking spaces in **Case 1**, 15 versus 43 days in **Case 2** and 18 versus 94 days in **Case 3**. This suggested that TD's approval for estimated time required for closure was over-generous.

Magnitude of Problem

19. The magnitude of the problem is unknown, as TD all along did not conduct checks on UU's actual occupation of the closed metered parking spaces until February 2011. Besides, before November 2010, UUs were only verbally requested to report changes of commencement/completion date of the works, which could again be made verbally. Also, TD kept no statistical records of non-compliance cases. As a result, the situation of non-compliance so far discovered may be just the tip of the iceberg. TD should continue to review the situation regularly to see if further measures are necessary to tackle the problem.

Action against UU for Non-Compliance

20. TD indicated that, upon identification of any non-compliance of the Approval Conditions, it will liaise with the UU concerned for swift rectification. If the UU fails to rectify promptly without a valid justification, TD will consider withdrawing the approval given.

21. We note that no approval given to UUs was ever withdrawn. We also note that there was a rebounce in the number of non-compliance cases since April 2011. In view of this, we consider it necessary for TD to review the situation regularly, say, half yearly, to see if further measures are necessary.

Role of HyD

22. HyD recently indicated its intention to stop checking compliance following TD's implementation of its Approval Conditions since 1 April 2011. In this regard, we note that the majority of the non-compliance cases were identified through HyD's audit inspections. We also note that audit inspections involving closed parking spaces only constitute about 1.37% of HyD's total audit inspections carried out from October 2010 to September 2011. In the circumstances, and having regard to HyD's overall coordinating role in the XP system, we consider it cost-effective for HyD to continue to report to TD non-compliance of TD's new approval conditions, at least until TD's monitoring measures have shown to be fully effective.

Recommendations

23. The Ombudsman has made six recommendations as follows:

(1) HyD to continue conducting audit inspections on sites involving temporary closure of metered parking spaces and reporting non-compliance to TD, until TD's monitoring measures have shown to be fully effective (**para. 22**);

(2) TD to emphasise to UUs, by refining the contents of the Approval Conditions or otherwise, the importance of:

(a) submitting site photos on time and the consequences of non-compliance (**para. 16**); and

(b) informing TD of "early completion" of works and the consequences of non-compliance (**para. 16**);

(3) TD to check closely the submission of site photos by UUs and, if necessary, to set up a computerised database for this purpose (**para. 17**);

(4) TD to keep statistical records and details of non-compliance cases (**para. 19**);

(5) TD to review the situation of non-compliance at half yearly intervals to see if any further measures are necessary (**paras. 19 and 21**); and

(6) TD to enhance its assessment of the time required for closure of parking spaces (**para. 18**).

Office of the Ombudsman
May 2012

1

INTRODUCTION

BACKGROUND

1.1 In the course of complaint handling, we noted that some metered parking spaces have been unnecessarily closed for periods much longer than the actual time required for the approved road excavation works. In view of the limited number of metered parking spaces and the high demand for such facilities, we consider that the closure of such parking spaces should be kept to the minimum.

1.2 Under the Excavation Permit Management system, public utilities which need to carry out road excavation works have to apply to the Highways Department ("HyD") for excavation permits and, if temporary closure of metered parking spaces is required due to road excavation works, also to apply to Transport Department ("TD") for approval. HyD will issue an excavation permit to the public utility concerned with appropriate conditions upon completion of the necessary vetting processes (see **Annex I**).

1.3 Our preliminary examination showed some deficiencies in TD's and HyD's procedures and practices in the administration of temporary closure of metered parking spaces involving road excavation works. Whilst HyD undertakes audit inspections on active excavation permit sites to monitor compliance of permit conditions, neither HyD nor TD monitored whether the closed metered parking spaces are actually occupied by utilities for scheduled excavation works. The situation appeared very unsatisfactory, as it might result in wasted public resources and unjustified inconvenience to drivers. In late 2010 and early 2011, TD and HyD initiated some enhancement measures. However, there were still many cases of non-compliance. Accordingly, The Ombudsman decided to initiate a direct investigation on the subject.

1.4 On 15 July 2011, The Ombudsman informed the Commissioner for Transport and the Director of Highways of his decision to initiate a direct investigation under section 7(1)(a)(ii) of The Ombudsman Ordinance, Cap. 397. The Ombudsman announced this direct investigation by a press release on 21 July 2011.

SCOPE OF INVESTIGATION

1.5 The ambit of our investigation is to examine:

(a) deficiencies in administering temporary closure of metered parking spaces during road excavation works carried out by public utilities;

(b) effectiveness of the enhanced measures introduced by TD and HyD in 2010 and 2011 to monitor temporary closure of metered parking spaces during road excavation works carried out by public utilities; and

(c) other measures, if any, for further improvement.

METHODOLOGY

1.6 We have sought and studied information from TD and HyD, including relevant legislation, Legislative Council brief, departmental guidelines, administrative procedures, statistical data and some non-compliance cases. We also held a meeting with representatives of TD and HyD to discuss the matter on 20 October 2011.

1.7 Members of the public were invited to give comments and suggestions from 21 July to 18 August 2011. The media reported widely on the next day that some taxi drivers and vehicle drivers had shown concern on the issue. We also received views from a member of the public on the subject.

INVESTIGATION REPORT

1.8 A draft investigation report was sent on 13 April 2012 to HyD and TD for comments. The comments were received on 30 April and 3 May 2012 respectively. This final report, having incorporated the comments from HyD and TD where appropriate, was issued on 25 May 2012.

2

ADMINISTRATION of TEMPORARY CLOSURE of METERED PARKING SPACES

CONTROL OF EXCAVATION WORKS IN STREETS

2.1 Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28), HyD is the authority for issuing excavation permits ("XPs") for excavations on streets maintained by it. HyD has developed an "Excavation Permit Processing Manual" laying down detailed procedures and guidelines to facilitate the preparation and submission of XP applications. These include:

- providing general guidelines to XP applicants for estimating duration of excavation works;

- stating the obligation of XP applicants to coordinate among various utility undertakers ("UUs") on interfacing and orderly sequence of works;

- stating the obligation of XP applicants to apply direct to TD and the Hong Kong Police Force ("HKPF") for assessment and approval on the necessary temporary traffic management ("TTM") proposals in relation to the road excavations, to ensure road safety and least disruption to traffic flow; and

- stating the obligation of XP applicants, where applicable, to apply direct to other authorities for their permissions in respect of other issues associated with the proposed road excavation works.

A flowchart on the processing of XP applications by HyD is attached at **Annex I**.

EXCAVATION PERMIT MANAGEMENT SYSTEM

2.2 HyD administers a computerised system, the "Excavation Permit Management System" ("XPMS"), which provides an electronic communication platform between XP applicants and HyD for processing XP applications. XPMS is also accessible to other authorities, including TD and HKPF, facilitating them to receive XP applicants' TTM or other proposals in relation to the excavation works for their respective assessment and approval as appropriate.

2.3 Upon completion of the necessary vetting processes, HyD would issue an XP to the applicant for the excavation to proceed, with a set of XP conditions ("the XP conditions").

2.4 Under the XP conditions, the XP holder shall notify relevant authorities, including HyD, TD and HKPF, in not less than two but not more than 14 working days in advance of the intended commencement date of the road excavation works. If the intended commencement date is to be deferred or advanced, the XP holder should serve another notification to HyD and other relevant authorities. In addition, the XP holder should notify HyD of the completion of the road excavation works by submitting a Completion Notice within 14 working days from the expiry of the XP.

EXCAVATION WORKS AND TEMPORARY CLOSURE OF METERED PARKING SPACES

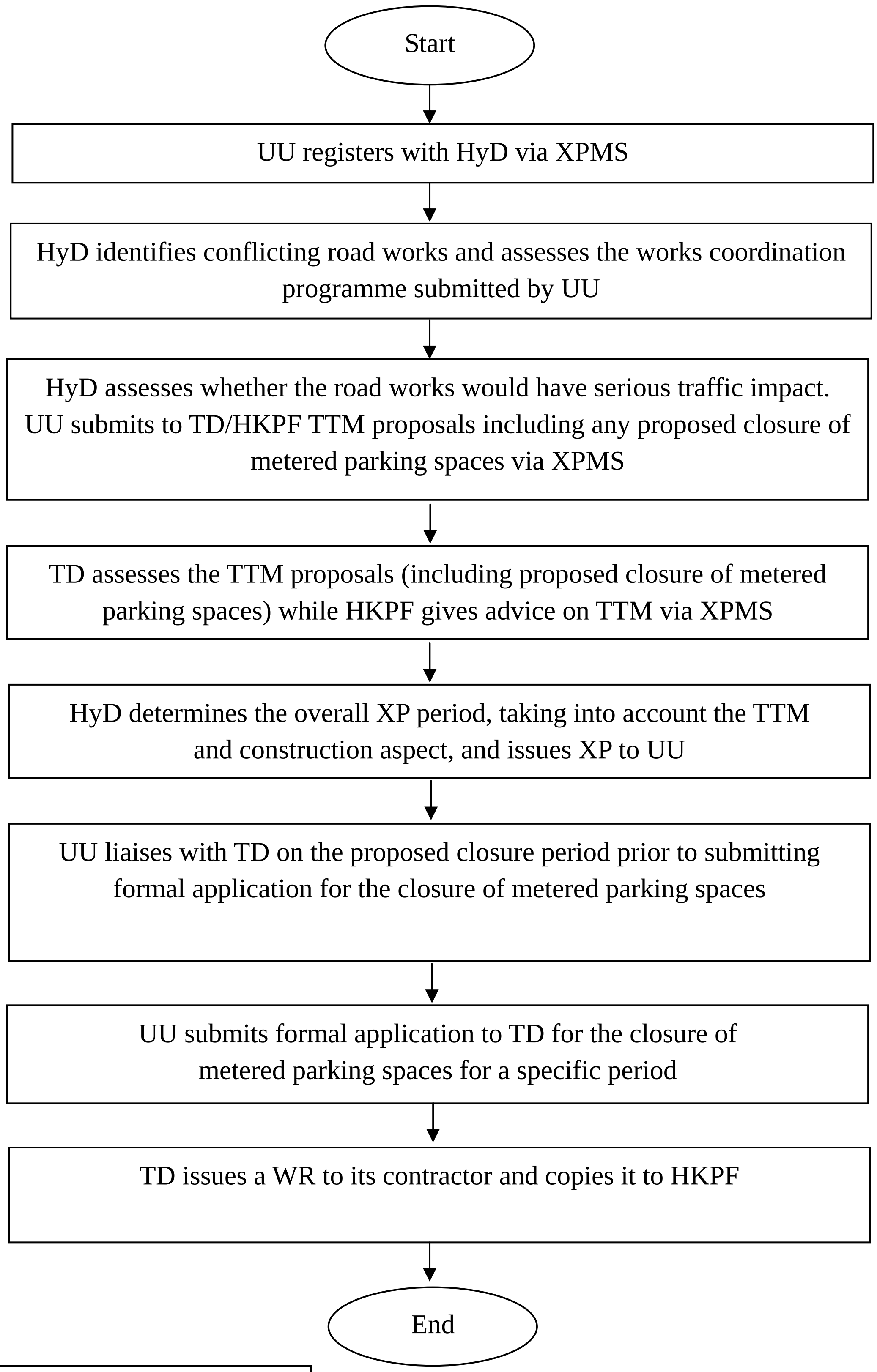
2.5 Utility facilities of diverse types may run beneath road space which TD has designated for on-street metered parking use. When UUs (which include government departments) carry out excavation works in connection with these underground utility facilities, they require temporary occupation of the parking spaces concerned. In such circumstances, UUs have to apply direct to TD for approval of temporary closure of such parking spaces. Prior to September 2010, HyD had no involvement in TD's administration of closure of metered parking spaces.

PROCEDURES FOR PROCESSING APPLICATION FOR TEMPORARY CLOSURE OF METERED PARKING SPACES

2.6 Under the XPMS arrangement, HyD will, at the beginning of processing applications for XP, identify any conflicting road excavation works and assess the road works coordination programme submitted by UUs. HyD will also assess whether the road excavation works will have serious traffic impact and, if so, require UUs to submit TTM proposals to TD and HKPF for assessment and approval. If temporary closure of metered parking spaces is required, UUs should include such proposals in the TTM submission, and TD will comment on its acceptability. HyD will then determine the overall XP period, taking into account the TTM endorsed by HKPF and TD, and issue XPs to UUs.

2.7 With the overall XP period given, the UU concerned will liaise with TD to discuss the proposed period of closure of metered parking spaces before formally applying for the closure. TD will assess the acceptability of the proposed closure period, taking into consideration various traffic factors (such as traffic condition in the vicinity, parking space supply and alternative parking options), and direct adjustments as required. The UU will be advised to proceed with the formal application only if the closure period is considered to be acceptable. Such liaison contacts are usually carried out through phone calls and no records are kept. Upon receipt of the formal application for a specified closure period, TD will approve or modify the closure period where necessary, and issue a Works Request to its contractor to effect the closure.

2.8 A flowchart on the processing of applications for temporary closure of metered parking spaces due to road excavation works is shown below:



Abbreviations:

HyD – Highways Department

HKPF – Hong Kong Police Force

TD – Transport Department

TTM – Temporary Traffic Measure

UU – Utility Undertaker

WR – Works Request

XP – Excavation Permit

XPMS – Excavation Permit Management System

MONITORING OF COMPLIANCE OF EXCAVATION PERMIT CONDITIONS

2.9 HyD requires every XP holder to undertake close supervision of excavation sites in accordance with the XP conditions, to ensure site safety and orderly implementation and timely completion within the XP period of the excavation works, as well as least disruption to traffic flow and road users.

2.10 HyD exercises control on road excavation works, putting focus on active sites which are being maintained and under excavation by XP holders. It undertakes regular audit inspections on active sites to ensure that the XP conditions are complied with during excavation, with particular attention to matters such as road safety, unattended or idling sites, inconvenience to the public and extent of excavation. It will notify the XP holders concerned of any non-compliance items for swift rectification.

2.11 For repeated non-compliance cases, advisory letters will be issued to the XP holders concerned. For repeated non-compliance revealed after the issue of an advisory letter, investigation will be conducted to collect evidence for instituting prosecution action against the XP holder.

2.12 HyD considered itself not to have involvement in the administration of closure of metered parking spaces (see **para. 2.5** above) as it is outside the provisions of Cap. 28 and did not check on non-compliance in this regard.

MONITORING OF TEMPORARY CLOSURE OF METERED PARKING SPACES

2.13 TD is responsible for day-to-day traffic management, monitoring of traffic situations and investigation of traffic-related complaints. All along it did not conduct checks on actual occupation of temporarily closed metered parking spaces and would only verbally request UUs to report changes of commencement or completion of works requiring temporary closure of metered parking spaces.

STATISTICS

2.14 Statistics of applications approved by TD for temporary closure of metered parking spaces related to road excavation works for the period from 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011 are shown in the table below:

Region	No. of applications	
	1 July 2009 – 30 June 2010	**1 July 2010 – 30 June 2011**
Hong Kong	327	219
Kowloon	1,234	752
New Territories	258	173
Total	**1,819**	**1,144**

3

ENHANCED MEASURES for ADMINISTRATION of TEMPORARY CLOSURE of METERED PARKING SPACES

HYD'S AUDIT INSPECTIONS

3.1 HyD conducts independent and cyclic audit inspections on active sites to check their compliance with XP conditions (see **para. 2.10**). However, such inspections had no connection with TD's administration of closure of metered parking spaces (see **para. 2.5**) until September 2010, when HyD agreed to provide supplementary support to TD in this respect on a trial basis.

3.2 All active sites will be included in the sampling for audit inspection. They are classified into the following categories, in decreasing order of priority for selection:

(a) sites with poor works performance records;
(b) sites not inspected in the past ten days; and
(c) sites with good works performance records.

On average, every site will be inspected at a frequency of once in ten days.

3.3 Under the new arrangement, from late September 2010 onwards, TD will notify HyD of its instructions issued to its contractor for temporarily closing metered parking spaces associated with excavation works, to facilitate HyD to identify those road opening works covered by XPs involving such temporary closure. HyD's Audit Inspection team will notify TD of any sites involving unnecessary closure of

parking spaces, i.e. UU not actually occupying the parking spaces for scheduled excavation works. Upon receipt of HyD's notification, TD will liaise with the UU concerned for rectification. TD may also decide whether the closure period of parking spaces needs adjustment and, if so, make arrangements accordingly.

3.4 During the four-month period from 1 October 2010 to 31 January 2011, HyD carried out 273 audit inspections on 89 out of the 392 sites involving temporary closure of metered parking spaces. The inspections revealed 29 cases of non-compliance or unnecessary closure. Details of these cases are as follows:

Reason for Non-compliance	**Number of Non-Compliance Cases**	**Location**	**Number of Parking Spaces Involved**	**Period of Unnecessary Closure**	**Number of Space-Days of Unnecessary Closure**
(a) Late start of works without informing TD	12	4 – Hong Kong 7 – Kowloon 1 – New Territories	2 – 8	2 – 28 days	415
(b) Early completion of works without informing TD	10	8 – Hong Kong 2 – New Territories	1 – 8	1 – 15 days	168
(c) Idling of works	5	3 – Hong Kong 2 – Kowloon	2 – 3	1 – 12 days	50
(d) Others	2	1 – Hong Kong 1 – New Territories	2 – 6	3-5 days	28
Total:	**29 cases**				**661 space-days**

HYD'S NEW XP CONDITION

3.5 To enable effective enforcement against unnecessary closure by XP holders of metered parking spaces, with effect from 21 February 2011, HyD promulgated the inclusion of the following new XP condition, after considering legal advice from the Department of Justice ("DoJ") and TD's comments:

> "26. (D) The Permittee shall not occupy any parking place/space on road for the Work without the prior approval of the Commissioner for Transport."

3.6 The above new XP condition also serves to remind XP holders of their obligation to obtain TD's prior approval for temporary closure of metered parking spaces to be affected by their road excavation works. A copy of the XP conditions presently adopted is at **Annex II**.

TD'S NEW APPROVAL CONDITIONS

3.7 In tandem with HyD's introduction of the new XP Condition and having consulted DoJ, HyD and UUs**,** from 1 April 2011 onwards, TD started to issue formal approval letters to UUs for temporarily closing metered parking spaces for road excavation work. Such approval letters contain specified approval conditions ("the Approval Conditions") as follows:

(a) Having obtained TD's letter of approval and with the support of HKPF's Road Works Advice or indication that a Road Works Advice application is pending, the UU shall confirm to TD via email or fax not later than three working days in advance of the scheduled start date that suspension shall be proceeded with. If the UU's confirmation is not received in time, TD may withdraw the approval of suspension and cancel the scheduled suspension. If there is any change in the scheduled start date, the UU shall inform TD via email or fax not later than five working days in advance of the scheduled suspension start date unless in exceptional circumstances.

(b) The UU shall provide to TD at least one and not more than three photos taken on the suspension start date showing a wide-angle view of the progress of works and the affected parking space(s), and thereafter during the suspension period at a frequency of once a week for suspension periods exceeding two weeks. For easy identification, each photo shall indicate Plan ID, the Form No (if available), street name and location related to the affected parking space(s), and shall be sent via email on the day the photo was taken or the next working day.

(c) If works do not start as scheduled or are no longer in active progress, TD will decide whether approval of suspension shall be withdrawn.

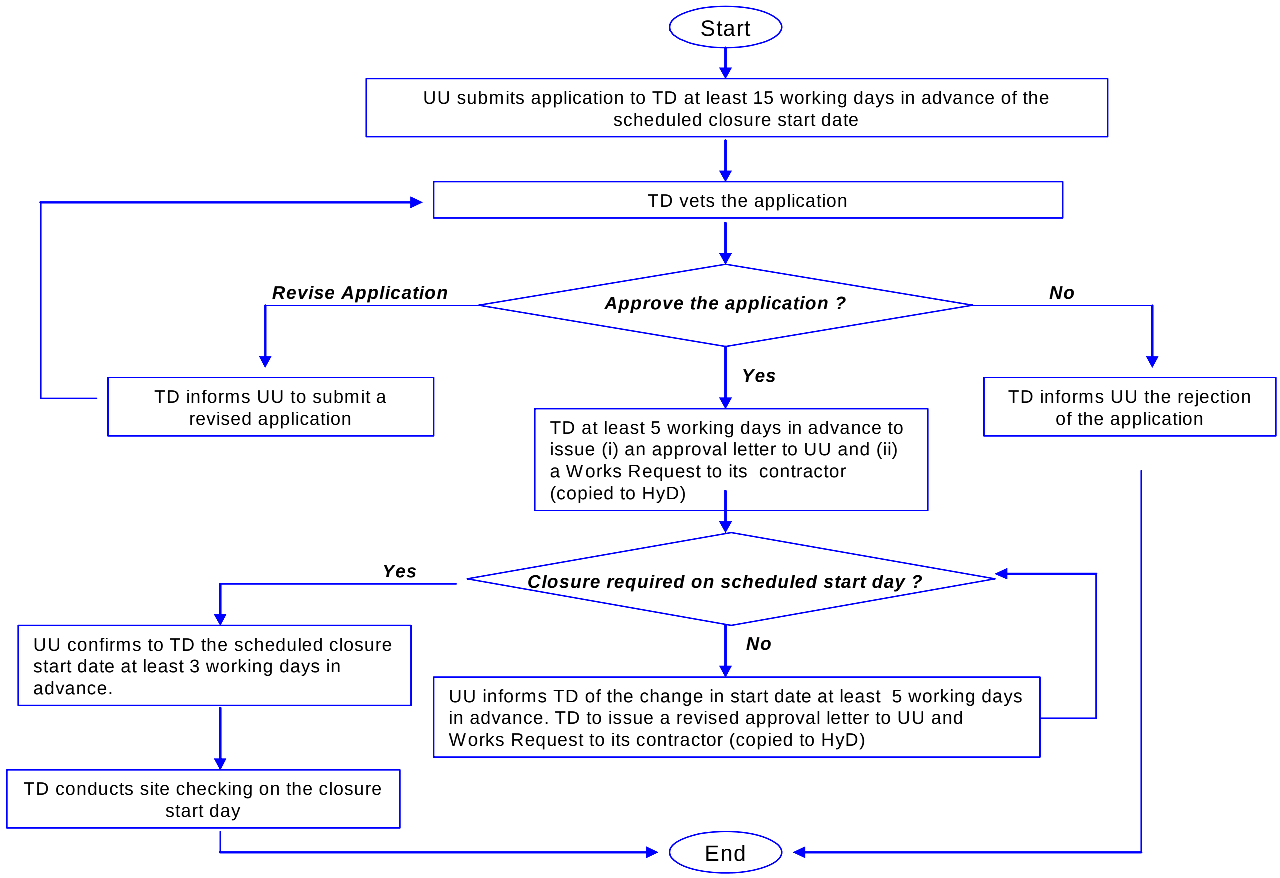
(d) If works necessitating suspension of parking space(s) are completed earlier than originally scheduled, the UU shall report to TD immediately via email or fax for TD to cancel the suspension of the affected parking space(s) as soon as possible.

(e) When delay in completion of works is foreseen by the UU, the UU shall inform TD via email or fax not later than five working days in advance of the scheduled suspension end date unless in exceptional circumstances, for TD to decide whether the approval period of suspension of the affected parking space(s) shall be extended.

(f) The UU shall exercise due diligence to ensure that, during the suspension period, the site shall be active with progress on every working day. In the event of non-compliance, TD may withdraw the approval of suspension by notifying the UU via email.

3.8 A copy of TD's sample approval letter with the Approval Conditions issued to UUs is at **Annex III**.

3.9 Also from 1 April 2011 onwards, TD has adopted enhanced procedures for processing applications for temporary closure of metered parking spaces due to road works, as shown in the following flowchart:



3.10 Under the enhanced procedures, UUs are required to inform TD if the works necessitating the closure of parking spaces are to be completed earlier than originally scheduled. TD will confirm if the reinstatement works (including road surface, signs and markings, etc.) have been properly completed before instructing its contractor to re-open the parking spaces, with the information copied to HyD. If the works are to be completed beyond the scheduled end date, the UU concerned should inform TD not later than five working days in advance. TD will consider whether to extend the closure period and, if so, issue a revised approval letter while informing its contractor of the change, with the information copied to HyD.

MONITORING OF COMPLIANCE OF APPROVAL CONDITIONS

3.11 TD requires UUs to submit site photos for checking the progress of works on site. For closure periods of up to 14 days, the UU is required to submit site photos on the closure start day. For closure periods exceeding 14 days, the UU is required to submit site photos on the closure start day and thereafter once a week.

3.12 Prior to February 2011, TD conducted ad hoc site visits to resolve technical issues or in response to public complaints. However, it did not keep records of such visits. Since then, TD has been conducting routine inspections on active sites involving closure of metered parking spaces shortly after the start of the closure period and periodically thereafter, subject to availability of staff resources, in addition to HyD's audit inspections (see **para. 3.3**).

DISINCENTIVES/PENALTIES FOR BREACH OF APPROVAL CONDITIONS OR XP CONDITIONS

3.13 Following the introduction of the formal approval procedures on 1 April 2011, upon identification of any non-compliance of the Approval Conditions (e.g. late start of work without informing TD), TD will liaise with the UU concerned for swift rectification. If the UU fails to rectify promptly without a valid justification, TD will consider withdrawing the approval given.

3.14 TD will keep a record of all non-compliance cases for subsequent vetting of applications from the same UU. UUs with poor compliance records will be required to provide more justifications to back up their applications in future.

3.15 When HyD identifies any non-compliance by UU with the new XP condition, e.g. occupying parking spaces for road works without prior approval from the Commissioner for Transport, HyD will notify the UU for swift rectification and inform TD for his consideration to take parallel action. For repeated non-compliance cases, advisory letters will be issued and, for further repeated non-compliance, prosecution action will be contemplated, as in the case of non-compliance with other XP conditions (see **para. 2.11**).

NUMBER OF NON-COMPLIANCE CASES RESULTING IN UNNECESSARY CLOSURE OF METERED PARKING SPACES

3.16 During the four-month period from 1 February to 31 May 2011, HyD carried out 426 audit inspections on 128 out of 327 sites while TD conducted 572 routine inspections on 233 out of 327 sites involving closure of metered parking spaces. With the introduction of the enhanced measures, the number of non-compliance cases during this period reduced as compared with the preceding four-month period (see **para. 3.4**). Details are as follows:

Reason for Non-compliance	Number of Non-compliance Cases	Location	Number of Parking Spaces Involved	Period of Unnecessary Closure	Number of Space-Days of Unnecessary Closure
(a) Late start of works without informing TD	2	1 – Kowloon 1 – New Territories	2 – 5	11 – 13 days	81
(b) Early completion of works without informing TD	2	1 – Hong Kong 1 – Kowloon	2	5 days	20
(c) late start and early completion of works without informing TD	1	1 – Kowloon	1	23 days	23
Total:	**5 cases**				**124 space-days**

3.17 This decrease, however, was not sustained in the subsequent three-month period from 1 June to 31 August 2011, in which HyD conducted 553 audit inspections on 160 out of 234 sites involving closure of metered parking spaces, while TD conducted 318 routine inspections on 131 out of 234 sites. An increase in the number of non-compliance cases was observed, mainly in the categories of “Early completion of works without informing TD” and “Idling of works”. Details are as follows:

Reason for non-compliance	Number of Non-compliance Cases	Location	Number of Parking Spaces Involved	Period of Unnecessary Closure	Number of Space-Days of Unnecessary Closure
(a) Late start of works without informing TD	2	1 – Hong Kong 1 – Kowloon	3 – 8	5 – 13 days	79
(b) Early completion of works without informing TD	8	2 – Hong Kong 5 – Kowloon 1 – New Territories	2 – 8	1 – 8 days	112
(c) Idling of works	4	3 – Kowloon 1 – New Territories	1-7	1-10 days	165
(d) Others	3	1 – Kowloon 2 – Hong Kong	2-5	8 –25 days	159
Total:	**17 cases**				**515 space-days**

HYD'S RESERVATION

3.18 HyD recently indicated, when responding to this direct investigation, that it might discontinue the trial initiative introduced in September 2010 to assist TD in monitoring unnecessary closure of metered parking spaces by UUs in its (HyD's) regular audit inspections. In its view, while additional resources and efforts are required to implement the initiative, the supplementary support this can give TD may not be material after TD's implementation of its Approval Conditions from 1 April 2011 onwards (see **paras. 3.1, 3.3** and **3.7(b)**).

4

CASE STUDIES

4.1 The following cases serve to illustrate the extent of unnecessary closure of metered parking spaces due to road excavation works. Some of the cases occurred after HyD's agreement to assist in the monitoring work in September 2010 (see **para. 3.3**) or even after TD's introduction on 1 April 2011 of the enhanced measures for administration of temporary closure of metered parking spaces (see **para. 3.7**).

Case 1 – Late start and early completion of works
(2009 case)

4.2 A UU applied to HyD and was granted XP for carrying out road excavation works for four months on certain streets from November 2009 to March 2010. It also obtained the agreement of TD (in the form of a "suspension works request form" issued to TD's contractor and copied to the UU) and HKPF to its proposed temporary traffic measures. Considering that parking facilities were available in the vicinity, TD agreed to the UU's proposal and closed six metered parking spaces for one month from 1 to 31 December 2009. In the event, the UU only took one week, i.e. 22 to 28 December 2009, to complete the works.

4.3 HyD conducted eight audit inspections during the XP period to check against any non-compliance (including one on 15 December 2009 when the six parking spaces were closed) and found that the UU had not occupied the site for the works. It did not inform TD of its inspection result of 15 December. Nor did TD conduct any inspection to monitor the situation.

4.4 **Observations:** In this case six metered parking spaces were unnecessarily closed for 24 days (144 space-days) (1-21 December and 29-31 December 2009). The then prevailing mechanism was not effective in preventing such waste of public resources.

Case 2 – Late start of works
(Post-September 2010 case)

4.5 Approval had been given by TD for a UU to temporarily close four metered parking spaces from 19 November to 31 December 2010 for road excavation works. The road works could not be commenced as scheduled because of other conflicting road works in the vicinity. The UU, however, did not inform TD of this despite TD's prior reminder for the UU to inform it in writing in case the road works could not be commenced as scheduled.

4.6 Pursuant to its new measure to provide supplementary support to TD in audit inspections (see **para. 3.3**), HyD conducted a total of four audit inspections on 22 and 30 November, 9 and 15 December 2010 and identified repeated idling of the aforesaid site. On being informed, TD issued four warning letters to the UU asking for explanation and mitigation measures. Each time the UU replied, giving reasons for the late start of works, but short of advising TD to re-open the parking spaces. TD approached the UU's project coordinator to clarify the position on 16 December 2010, i.e. after nearly a month. The works were subsequently started on 17 December and completed on 31 December 2010. The parking spaces were re-opened on 1 January 2011.

4.7 **Observations:** Four metered parking spaces were unnecessarily closed for **28 days** (112 space-days) (19 November to 16 December 2010). The UU applied and TD approved the closure of the parking spaces for road works for 43 days. However, the works actually took only 15 days to complete. This reflected that TD's vetting was too loose. The procedures for UU to report to TD in case of late start of work and the need to re-open parking spaces were not clearly spelt out. Furthermore, TD's follow-up action by issuing warning letters only seemed too passive. TD claimed to have contacted the UU directly to urge for completion of outstanding reinstatement works but there was no records on file of such action.

Case 3 – Late start and early completion of works
(Case straddling 1 April 2011)

4.8 Approval had been given by TD for a UU to temporarily close a metered parking space during the period from 17 March to 18 June 2011 for road excavation work. HyD conducted audit inspection on 21 April 2011 and found no site activity there. HyD informed TD on 26 April 2011. TD wrote to the UU asking for explanation and mitigation measures on the same day. In response, the UU replied that the works had commenced on 29 March and been completed on 15 April 2011.

The parking space was re-opened on 27 April 2011.

4.9 **Observations:** This is a typical case of "late start" and "early completion" of works. The parking space was unnecessarily closed for **23 days** (23 space-days) (17 - 28 March and 16 - 26 April 2011). The UU applied for and TD approved the closure of the parking space for road works for three months. However, the works actually took only 18 days to complete. Again, this reflected that TD's vetting was too loose. If HyD had not conducted the site inspection, the duration of unnecessary closure could have been much longer. Also, TD did not follow the enhanced procedures detailed in **para. 3.12** and conduct a site check on the commencement date of the closure period.

Case 4 – Cancellation of works
(Post – April 2011 case)

4.10 Approval had been given by TD for a UU to close five metered parking spaces temporarily during the period from 3 July to 2 August 2011 for road excavation works. HyD conducted audit inspection on 26 July 2011 and found the site idling but the metered parking spaces concerned closed. When informed, TD emailed the UU reminding it to monitor the works and to inform the relevant authorities regarding any change of the works programme as it had never received such information. The UU replied that the works had been cancelled. The parking spaces were re-opened on 28 July 2011.

4.11 The UU submitted a site photo only on the start date of meter closure but failed to do so thereafter in accordance with the Approval Conditions (see **para. 3.7 (b)**).

4.12 **Observations:** Five parking spaces were unnecessarily closed for **25 days** (125 space-days) (3 – 27 July 2011) due to cancellation of work. This case showed that TD did not conduct site checking on the start date of meter closure (see **para**. **3.12**) and failed to discover the UU's non-compliance with the Approval Conditions on submission of site photos. As in **Case 3**, If HyD had not conducted the site inspection, six more days of unnecessary closure could have resulted.

5

OBSERVATIONS AND COMMENTS

DEMAND FOR METERED PARKING SPACES

5.1 At present there are about 18,000 metered parking spaces and 624,500 licensed vehicles in Hong Kong[1], i.e. a ratio of about one space to 35 licensed vehicles. With this ratio, and the very limited number of free on-street parking spaces, the demand for metered parking spaces is high, particularly in busy areas. Based on statistics provided by TD, the average utilisation rates[2] of metered parking spaces in the three Regions of Hong Kong, Kowloon and New Territories and in the busiest Districts in the three Regions during the period of August to November 2010 during weekdays and holidays were:

		Weekdays (%)	Holidays (%)
Hong Kong	Region	53.73	58.39
	Causeway Bay	71.30	75.88
Kowloon	Region	59.38	64.33
	Yau Ma Tei	79.57	73.58
New Territories	Region	37.95	47.06
	Tsing Yi	85.38	58.19

5.2 However, the actual utilisation rate in busy areas could be much higher, particularly in busy hours. Recently, we have conducted site inspections at two busy locations with the following results:

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[1] *According to TD, as at September 2011 there were 18,008 metered parking spaces and 624,438 licensed vehicles in Hong Kong.*

[2] *This is the percentage ratio between the number of space-hours occupied and the total number of space-hours provided.*

(a) Location of **Case 1** in **Chapter 4** (Tsuen Wan)

(i) **Date of inspection:** Monday 26 March 2012
Time of inspection: 0900 – 1200 hours
Total no. of metered parking spaces in the vicinity: 21
Methodology: Occupation of each parking space was observed at half-hourly slot intervals, viz. on the hour and at half hours during the inspection period, altogether 7 times.
Result: 5 parking spaces not occupied at 3 different observations, with 142 utilised space-slots out of a total of 147 (21 x 7), giving a 96.6% utilisation rate.

(ii) **Date of inspection:** Wednesday 28 March 2012
Time of inspection: 1405 – 1705 hours
Total no. of metered parking spaces in the vicinity: 21
Methodology: Occupation of each parking space was observed at half-hourly slot intervals, viz. at 5-minute past and 35-minute past during the inspection period, altogether 7 times.
Result: 4 parking spaces not occupied at 3 different observations, with 143 utilised space-slots out of a total of 147 (21 x 7), giving a 97.3% utilisation rate.

(b) Location of **Case 4** of **Chapter 4** (Yau Ma Tei)

(i) **Date of inspection:** Friday 30 March 2012
Time of inspection: 1210 – 1410 hours
Total no. of metered parking spaces in the vicinity: 25
Methodology: Occupation of each parking space was observed at half-hourly slot intervals, viz. at 10-minute past and 40-minute past during the inspection period, altogether 5 times.
Result: 13 parking spaces not occupied at 4 different observations, with 112 utilised space-slots out of a total of 125 (25 x 5), giving a 89.6% utilisation rate.

(Note: The 25 spaces comprised 5 half-hour meters (total 25 space-slots during the inspection period), 5 one-hour meters (also 25 space-slots) and 15 two-hour meters (total 75 space-slots). The total of 13 unoccupied space-slots observed comprised 10 in the half-hour meters, giving a 60% utilisation rate; 2 in the one-hour meters, giving a 92% utilisation rate; and 1 in the two-hour meters, giving a 98.7% utilisation rate.)

(ii) **Date of inspection:** Friday 30 March 2012
Time of inspection: 1820 – 2020 hours
Total no. of metered parking spaces in the vicinity: 25
Methodology: Occupation of each parking space was observed at half-hourly slot intervals, viz. at 20-minute past and 50-minute past during the inspection period, altogether 5 times.
Result: 5 parking spaces not occupied at 3 different observations, with 120 utilised space-slots out of a total of 125 (25 x 5), giving a 96% utilisation rate.

(Note: The 5 unoccupied space-slots comprised 2 in the half-hour meters, giving a 92% utilisation rate; 3 in the one-hour meters, giving an 88% utilisation rate; and none in the two-hour meters, giving a 100% utilisation rate.)

5.3 The above site inspections showed that metered parking spaces in busy areas are in very high demand, especially during busy hours. TD has the responsibility to keep the closure of such parking spaces to the minimum in order to reduce unnecessary inconvenience to drivers and wastage of public resources.

ROLE OF HYD

5.4 HyD commenced assistance in identifying unnecessary closure of metered parking spaces in late September 2010 (see **para. 3.1**). We welcome this initiative of HyD's but are concerned about its recent indication of its intention to stop checking compliance in this aspect following TD's implementation of its Approval Conditions since 1 April 2011 (see **para. 3.18**).

5.5 We note that the majority (46 out of 51) of the non-compliance cases, discovered from 1 October 2010 to 31 August 2011 (see **tables** in **paras. 3.4, 3.16** and **3.17**), were identified through HyD's audit inspections. Even for the period from 1 February to 31 August 2011 in which TD also participated in monitoring, 17 out of the total of 22 non-compliance cases (or 77.3%) were identified by HyD. We also note that audit inspections involving closed parking spaces only constitute about 1.37% of HyD's total audit inspections carried out from 1 October 2010 to 30 September 2011 (1,393 audit inspections for sites involving closure of parking spaces as compared to a total of 101,724 audit inspections for all sites). In the circumstances, and having regard to HyD's overall coordinating role in the XP system, we consider it cost-effective for HyD to continue to report to TD non-compliance of TD's new approval conditions, at least until TD's monitoring measures have shown to be fully

effective.

MONITORING BEFORE SEPTEMBER 2010

5.6 Prior to September 2010, there was no monitoring of UU's actual occupation of the metered parking spaces temporarily closed for road works.

5.7 TD had no arrangement to monitor the UU's actual occupation of the parking spaces (see **para. 2.13**). Although HyD conducted regular audit inspections on active sites, it did not cover any unnecessary closure of metered parking spaces (see **paras. 2.9 to 2.11**), as reflected in Case 1 (see **para. 4.3**).

ENHANCED MONITORING MEASURES BETWEEN LATE SEPTEMBER 2010 AND 31 MARCH 2011

5.8 We were pleased to note that TD responded positively to our preliminary inquiries on the subject. Since late September 2010, HyD has agreed to conduct audit inspections for TD and to notify it of sites involving suspected unnecessary closure of metered parking spaces. As a result of this enhanced measure, 29 non-compliance cases were identified in 273 audit inspections conducted by HyD (see **paras. 3.3** and **3.4**) during the period from October 2010 to January 2011.

5.9 In November 2010, as an interim measure, TD started to remind UUs of the need to report and to arrange re-opening of the parking spaces in case of late start of works by putting remarks to that effect in the Works Request copied to UUs. This interim measure was, however, not drawn to the attention of all UUs. TD did not issue to UU any formal approval letter setting out the conditions to be observed.

5.10 As reflected in Case 2, which occurred after HyD had started conducting audit inspections for TD, prolonged idling of road works was still identified through audit inspections. This revealed inadequacy of the enhanced measures and the need for further improvement. TD then introduced the Approval Conditions on 1 April 2011 (see **para.3.7**).

5.11 In addition to HyD's audit inspections, TD has since February 2011 exercised some control on proper implementation of temporary closure of metered parking spaces by monitoring UU's work progress through routine site visits (see **para. 3.12**). Five of the 22 non-compliance cases mentioned in **paras. 3.16** and **3.17** were identified through TD's routine checks.

ENHANCED MONITORING MEASURES SINCE 1 APRIL 2011

5.12 Since 1 April 2011, TD introduced a set of Approval Conditions (see **para. 3.7**), which include the requirements for UUs to inform TD in case of early completion of works and to submit updated site photos regularly. However, the consequence of non-compliance with these two requirements is unclear. The measure in **para. 3.14** may be one, but is it deterrent enough? Are there other sanctions? We consider it necessary for TD to spell out the consequence of non-compliance, whether by refining its Approval Conditions or by otherwise conveying the message to UUs, and monitor the effectiveness of the sanctions.

5.13 As shown in **Case 4**, the UU did not comply with the Approval Conditions in submitting updated site photos but TD failed to discover this. This reflected TD's poor monitoring of the UU's works progress, despite implementation of the enhanced measures. We consider it important that TD should check closely the submission of site photos by UUs. If necessary, TD should consider setting up a computerised database for this purpose.

APPROVAL OF DURATION OF CLOSURE

5.14 **Cases 1**, **2** and **3** were typical cases involving "late start" and "early completion" of works without informing TD to re-open the parking space. Also, actual works took only 7 days to complete versus 31 days approved for temporary closure of parking spaces in **Case 1**, 15 versus 43 days in **Case 2** and 18 versus 94 days in **Case 3**. This suggested that TD's approval for estimated time required for closure was over-generous. We urge TD to enhance its assessment of the time required for closure of parking spaces.

5.15 We note that the average duration of closure of parking spaces approved for road works has declined since October 2010 after we have initiated inquiries on the subject, as reflected below:

Region	**Average duration (days)**		
	April 2010 – September 2010	**October 2010 – March 2011**	**April 2011 – September 2011**
Hong Kong	36	30	22
Kowloon	37	38	36
New Territories East	51	49	35
New Territories West	37	27	19

5.16 Also, the number of applications approved by TD for closure of parking spaces reduced from 1,819 during the period from 1 July 2009 to 30 June 2010 to 1,144 in the following year (see **para. 2.14**).

5.17 The statistics seem to suggest that TD has been tightening up in the assessment of the need to close metered parking spaces for road works as well as the time required for such closure, since implementation of the enhanced monitoring measures.

ACTION AGAINST UU FOR NON-COMPLIANCE

5.18 We note the enhanced measures being undertaken by TD and HyD for dealing with non-compliance cases (see **paras. 3.13** to **3.15**). Yet, we also note that, since the implementation of the enhanced monitoring measures in April 2011 till September 2011, no approval given to UUs was ever withdrawn. TD claimed that they all managed to take prompt rectification action upon TD's request. In view of the rebounce in the number of cases of non-compliance since April 2011(see **para. 3.17**), we consider it necessary for TD to review the situation of non-compliance regularly, say, half yearly, to see if stronger enforcement action or further measures are necessary.

MAGNITUDE OF PROBLEM

5.19 We note that a total of 1,819 and 1,144 applications for temporary closure of metered parking spaces for road excavation works were approved by TD during the periods from July 2009 to June 2010 and from July 2010 to June 2011 (see **para. 2.14**). As reflected in the case studies in Chapter 4, unnecessary closure of parking spaces could be for a period longer than three weeks. The magnitude of the problem is, however, unknown, as TD all along did not monitor UU's actual occupation of the closed metered parking spaces until February 2011. Besides, before November 2010, UUs were only verbally requested to report changes of commencement/completion date of the works, which could again be made verbally. Also, TD kept no statistical records of non-compliance cases. As a result, the situation of non-compliance so far discovered may be just the tip of the iceberg.

5.20 The number of non-compliance cases identified decreased from 29 in four months (for the period from October 2010 to January 2011) to 5 in four months (from February to May 2011) and then rebounced to 17 in three months (from June to August 2011) (see **paras. 3.4, 3.16 and 3.17**). As these non-compliance cases were

identified mainly through HyD's audit inspections and TD's routine site visits (since February 2011), which covered only a relatively small portion of the total duration of the aggregate of UU's works requiring temporary closure of metered parking spaces, we cannot draw definite inference on the effectiveness of the enhanced measures. TD should continue to review the situation regularly to see if further measures are necessary to tackle the problem.

OVERALL OBSERVATIONS

5.21 Prior to September 2010, monitoring of the administration of temporary closure of metered parking spaces was lacking, resulting in unnecessary closure of the parking spaces not being noticed or rectified. No written directives were given to UUs about the requirements to be observed. There was also no monitoring of UU's actual occupation of such parking spaces.

5.22 We appreciate that TD and HyD have enhanced their monitoring efforts since September 2010. The new measures have brought about positive effect, as the number of applications approved by TD for closure of metered parking spaces and the average duration of closure have dropped (see **paras. 5.15** to **5.16**). However, **cases 2**, **3** and **4** show that the problem has persisted even after implementation of these enhanced measures. Further measures to deal with the problem are needed. Meanwhile, HyD should continue to collaborate with TD in this respect.

6

CONCLUSION AND RECOMMENDATIONS

CONCLUSION

6.1 HyD is the authority for issuing XPs for excavation on streets it maintains and overall coordinator of the XP system. When some part of the excavation works requires the closure of metered parking spaces, UUs have to apply direct to TD for approval. Public demand for metered parking facilities is high, particularly in busy areas where the majority of the non-compliance cases were identified. TD has the responsibility to keep the unnecessary closure of such parking spaces to the minimum so as to reduce inconvenience to drivers and wastage of public resources. Yet, before it can fully discharge this function, TD must continue to collaborate with HyD to ensure that the situation is closely monitored and the problem effectively tackled.

RECOMMENDATIONS

6.2 In this light, The Ombudsman makes the following recommendations to HyD and TD:

HyD

(1) To continue conducting audit inspections on sites involving temporary closure of metered parking spaces and reporting non-compliance to TD, until TD's monitoring measures have shown to be fully effective (see **para. 5.5**);

TD

(2) To emphasise to UUs, by refining the contents of the Approval Conditions or otherwise, the importance of:

(a) submitting site photos on time and the consequences of non-compliance (see **paras. 5.12**); and

(b) informing TD of "early completion" of works and the consequences of non-compliance (see **para. 5.12**);

(3) To check closely the submission of site photos by UUs and, if necessary, to set up a computerised database for this purpose (see **para. 5.13**);

(4) To keep statistical records and details of non-compliance cases (see **para. 5.19**);

(5) To review the situation of non-compliance at half yearly intervals to see if any further measures are necessary (see **paras. 5.18** and **5.20**); and

(6) To enhance its assessment of the time required for closure of parking spaces (**paras. 5.14** and **5.15**).

ACKNOWLEDGEMENT

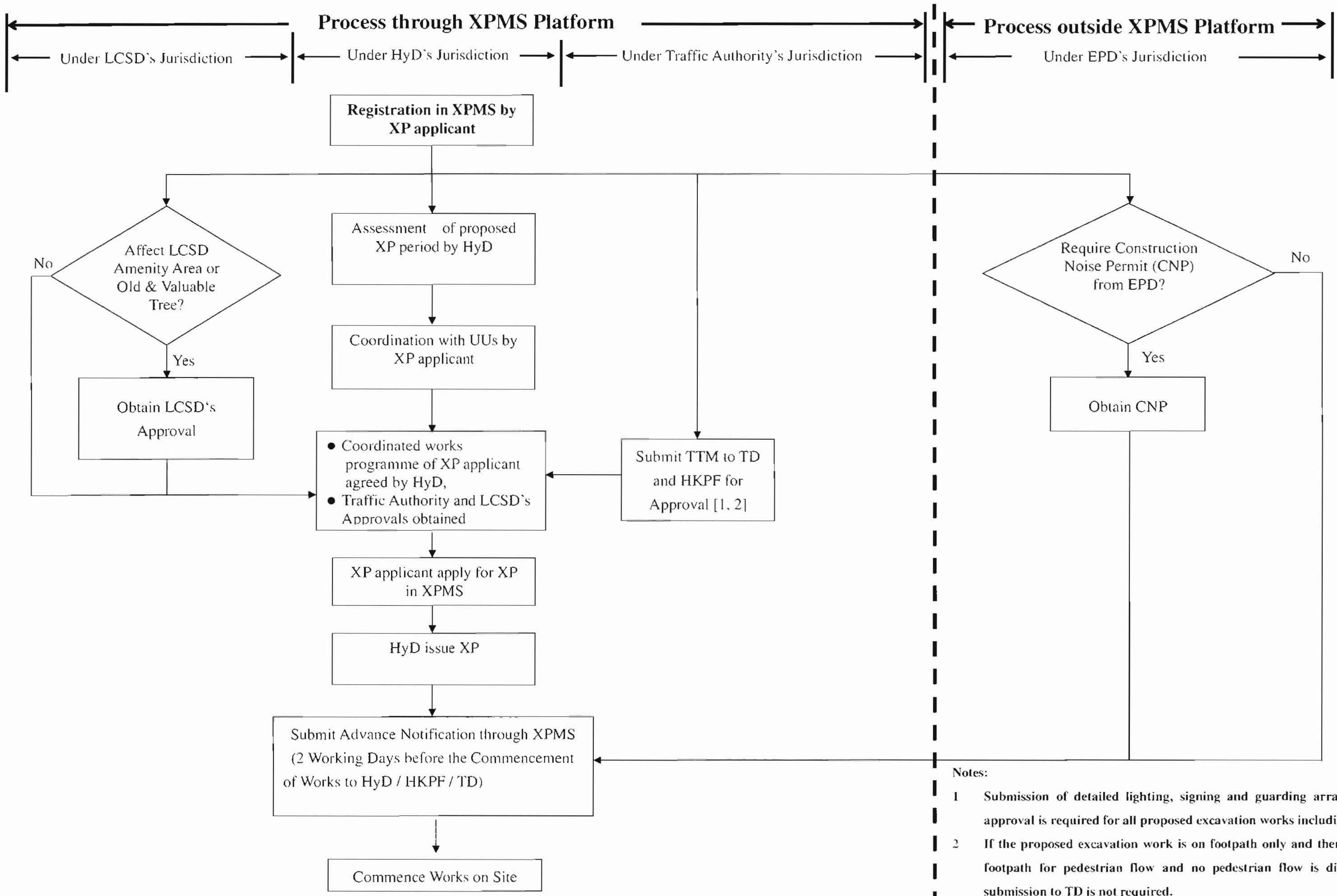
6.3 The Ombudsman thanks the Commissioner for Transport and the Director of Highways and their staff for their assistance throughout this investigation.

Office of the Ombudsman
Ref. OMB/DI/223
May 2012

ANNEXES

Annex I
(Para. 1.2)

Flowchart for Processing XP Applications by HyD



Notes:

1. Submission of detailed lighting, signing and guarding arrangement to HKPF for approval is required for all proposed excavation works including those at footpath.
2. If the proposed excavation work is on footpath only and there is sufficient space on footpath for pedestrian flow and no pedestrian flow is diverted to carriageway, submission to TD is not required.

CONDITIONS OF EXCAVATION PERMIT

COMPLIANCE WITH CONDITIONS OF PERMIT

1. (A) Subject to sub-clause (B), the Permittee shall comply with all of these Conditions of Permit and any Additional Conditions of Permit attached.

   (B) Where there is a Nominated Permittee in relation to this Permit pursuant to Section 10G of the Land (Miscellaneous Provisions) Ordinance, the Permittee and the Nominated Permittee shall comply with the Conditions of Permit as follows–

   (I)

	Conditions of Permit No.	*To be complied with by*
(a)	3, 6, 7(A)(I), 7(B)(I), 8, 9(E), 10, 11, 12(A)&(B), 13, 14, 15, 16, 17, 20(A)&(B)&(H), 21, 27, 39, 44(A)&(B), 45(B)(II)&(C), 46, 47 and 48.	The Permittee
(b)	7(A)(II), 7(B)(II), 9(A)to(D), 12(C), 19, 20(C)to(G), 22, 23, 24, 25, 26, 28, 29, 30, 31, 33, 34, 35, 36, 37(A)to(C), 38, 40 and 43.	The Nominated Permittee
(c)	Any conditions other than (a) and (b) above	Both the Permittee and the Nominated Permittee

   (II) The Permittee referred to in these Conditions of Permit shall then mean the Permittee, the Nominated Permittee or both the Permittee and the Nominated Permittee as the case may be in accordance with sub-clause (B)(I) above.

ASSOCIATED LEGISLATION AND DOCUMENTS

2. In addition to the conditions set out in these Conditions of Permit, the Permittee shall comply with all the relevant provisions of the Land (Miscellaneous Provisions) Ordinance and the provisions of any other legislation relating to the Work covered by this Permit.
3. Whenever the Permittee seeks to rely on specifications to cover the Work which are different from the Authority's Specifications under this Permit, such specifications shall only be used with the prior agreement of the Authority.

THE SITE AND THE WORK

4. The site demarcated for occupation by the Permittee under this Permit shall mean the space occupied by the Permittee for the execution of the Work, the space providing pedestrian and vehicular access for the purpose of the Work, and any temporary diversions as stated in Clause 33 and other space required for the completion of the Work.
5. The Work under this Permit includes also all temporary work, temporary reinstatement and other temporary operations to be carried out by the Permittee.

GENERAL OBLIGATIONS

6. (A) The Permittee shall take all reasonably practical steps to set up a management system under his control to supervise, monitor and prevent the Nominated Permittee, if any, and his contractors from committing an act or making an omission in contravention of these Conditions of Permit.

   (B) The Permittee shall co-operate with the Authority and take order/instruction of the Authority to–

   (I) stop or instruct the Nominated Permittee to stop the contravention with any Conditions of Permit;

   (II) avoid or instruct the Nominated Permittee to avoid the recurrence of any like contravention; and

   (III) report to the Authority within two working days after the contravention has been stopped; and for the contravention in respect of cover to underground services and installations, report to the Authority together with photographs or other proof within seven working days after the contravention has been stopped.

7. (A) For those specifications agreed between the Authority and the Permittee before the issue of the Permit,

(I) the Permittee shall make his own arrangement such that the Work shall be carried out in accordance with such specifications.

(II) the Permittee shall comply with and strictly adhere to such specifications in the execution of his Work.

(B) For instructions related to the Permit as may be added from time to time by the Authority, which may include the following–

- deferring the commencement and completion date of this Permit
- temporary imposition or modification of restricted hours for the Work
- temporary suspension of the Work
- temporary covering up or reinstatement of the excavation,

(I) the Permittee shall make his own arrangement such that the Work shall be carried out in accordance with such instructions.

(II) the Permittee shall comply with and adhere to such instructions in the execution of his Work as far as reasonably practicable.

The Authority shall not be liable for any claim from the Permittee for any cost or loss thus incurred.

8. (A) Where there is no Nominated Permittee under this Permit, the Permittee shall inform the Authority the name of the appointed contractor not less than 2 working days if such appointed contractor is different from the one named in the Permit.

(B) The Permittee shall provide, receipt to be acknowledged in writing and produced to the Authority upon request, a copy of this Permit and Conditions of Permit to the Nominated Permittee or his appointed contractor, as the case may be, before one commences work.

9. (A) The Permittee shall

(I) display a photocopy of this Permit, any extension of this Permit and any other permits on the sign face of small publicity boards and/or the back of publicity boards for motorists; and

(II) make readily available, if any, temporary traffic arrangement plans as agreed by the Commissioner for Transport and/or the Hong Kong Police Force on site or upon request by the Authority

for inspection by the Authority.

(B) In case of the Work affecting area other than carriageway including footway, cycle track, verge, side lane and back lane, the Permittee shall display the small publicity boards in accordance with the current version of Highways Department (HyD) Standard Drawing* no. H6144 or H6145, or the Permittee's drawings approved by the Authority.

(C) In case of the Work affecting carriageway, the Permittee shall display the publicity boards for motorists or small publicity boards in accordance with the guidelines as given in the current version of HyD Guidance Notes* RD/GN/019 and HyD Standard Drawing no. H6144 or H6145 or H6148 or H6149, or the Permittee's drawings approved by the Authority.

(D) The Permittee shall ensure that the information on these publicity boards mentioned in sub-clauses (B) & (C) above is updated.

(E) The Permittee shall ensure that the enquiry telephone number displayed on these publicity boards mentioned in sub-clauses (B) & (C) above is reachable at all times.

10. All pipes, cables, ducts, covers, valve boxes, chambers, and any other installations laid or installed by the Permittee under this Permit are to be laid or installed at the risk of the Permittee and they shall be adjusted, realigned or removed at no expense to Government, whenever deemed necessary by Government.

11. (A) The Permittee shall indemnify and keep indemnified Government against all losses and claims for injury or damage to any person or property, nuisance, disruption or interference whatsoever which may arise out of or in consequence of the Work of the Permittee, and against all claims, demands, proceedings, damages, costs, charges or expenses whatsoever in respect thereof or in relation thereto.

(B) The Permittee shall make good or pay for any works as a result of or in consequence of the Work of the Permittee.

12. (A) The Permittee shall notify the relevant Chief Highway Engineer (CHE) of HyD in writing, by facsimile or via HyD's Excavation Permit Management System (XPMS) not less than 2 working days (a Sunday

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* HyD Standard Drawings & Guidance Notes, and Guide to Trench Excavations may be downloaded from the web site of Highways Department www.hyd.gov.hk

or a General Holiday is not counted as a working day for the purpose of this condition) and not more than 14 working days in advance of the intended commencement date of his Work. The notification shall include the Permit number and the intended commencement date of his Work and any other information as required by the Authority.

(B) (I) If the intended commencement date of the Work as stated in the relevant notification given under sub clause (A) of Clause 12 (the relevant notification is the first such notification, but if there is more than one such notification, then the relevant notification is the latest of such notifications) requires to be deferred, the Permittee shall cancel the relevant notification on or before the intended commencement date and serve another notification to the concerned CHE in writing, by facsimile or via HyD's XPMS when the new intended commencement date is ascertained, and for this purpose the Permittee may serve the new notification at any time (which may even be less than 2 working days) in advance of the new intended commencement date of his Work.

(II) If the intended commencement date of the Work as stated in the relevant notification requires to be advanced, the Permittee shall cancel the relevant notification and then serve another notification to the concerned CHE in writing, by facsimile or via HyD's XPMS not less than 2 working days in advance of the new intended commencement date.

(C) No Work shall commence before the intended commencement date or the new intended commencement date under the relevant notification as the case may be.

13. The Permittee shall notify the Senior Superintendent of Police/Traffic, Hong Kong Police Force, in writing, by facsimile or via HyD's XPMS not less than 2 working days in advance of the intended commencement date of his Work. All such notifications shall include a plan to a suitable scale showing the location and extent of the Work, unless such a plan has been submitted previously.

14. The Permittee shall notify each of the parties concerned shown in Table 1 of Appendix A (and others as may be added from time to time by the Authority) in writing, by facsimile or via HyD's XPMS not less than 2 working days in advance of the intended commencement date of his Work.

15. The Permittee shall notify each of the parties concerned shown in Table 2 of Appendix A (and others as may be added from time to time by the Authority) in writing, by facsimile or via HyD's XPMS for those parties having access to the XPMS, 2 working days in advance of the intended commencement date of his Work and produce written proof of such notification upon request by the Authority.

16. Unless otherwise extended by the Authority, this Permit expires on the date specified by the Authority in the Permit.

SELF-REGULATORY CONTROL

17. (A) The Permittee shall submit to the Authority on or before the date of submission of a Completion Notice referred to in Clause 46 the details (i.e. the name, his relation with the Permittee etc.) of a responsible person, with recognised professional qualification such as member of recognised professional institutions, who has been designated by the Permittee to certify as-built records in respect of level and alignment of the underground services and installations laid or placed.

(B) The Permittee shall provide such certified as-built records upon request by the Authority.

MINIMUM DEPTH OF SERVICES AND ASSOCIATED INSTALLATIONS

18. (A) Unless prior approval to deviate from this condition has been granted by the Authority, the Permittee shall ensure that underground services and installations be laid or placed in accordance with the minimum depth requirement. The minimum depth measured vertically to the top of the underground services and installations including pipes, cables, ducts, joints, etc. shall be:

(I) Services other than high tension power cables of 33kV or above laid under:

(a) Part of the street which is not carriageway (non-carriageway) – 450 millimetres from the finished surface of the non-carriageway including footway, cycle track, verge, side lane and back lane provided that

(i) Where the proposed underground services or installations occupy more than half the combined width of the non-carriageway, the minimum depth shall be increased to 900 millimetres (for the purpose of measuring the combined width, adjoining non-carriageway parts including footway, cycle track, verge, side lane and back lane will be counted), and

(ii) For non-energised underground services, which include telecommunication cables laid in ducts but exclude power cables, watermains and gas mains, involving a maximum of two cable ducts of nominal diameter 115 millimetres or less, the minimum depth to the top of the external surface of the ducts can be reduced to 300 millimetres provided that conspicuous identification devices in the form of plastic caution tape of not less than

100 mm wide with the utility company's name or abbreviation clearly imprinted on it are provided continuously above the ducts. When entrusted works are involved where the Permittee undertakes to lay or place telecommunication cables in ducts on behalf of other(s), the number of cable ducts to be laid for each telecommunication utility undertaking shall not exceed two and these cable ducts shall also be laid in compliance with the requirements stipulated above;

(b) Carriageway – 900 millimetres from the finished surface of the carriageway;

(II) High tension power cables of 33kV or above laid under:

(a) Part of the street which is not carriageway (non-carriageway) – 1000 millimetres from the finished surface of the non-carriageway including footway, cycle track, verge, side lane and back lane;

(b) Carriageway – 1000 millimetres from the finished surface of the carriageway.

(B) Unless prior approval to deviate from this condition has been granted by the Authority, the Permittee shall ensure that underground services and installations running along the "Kerb Zone", which is made up of the part of the street which is not carriageway including footway, cycle track, verge, side lane and back lane within 300 millimetres from the kerb line and the part of the carriageway within 2000 millimetres from the kerb line, be placed at a minimum depth of 1500 millimetres measured vertically from the finished surface of the carriageway to allow construction of road gullies.

(C) Where deemed necessary by the Authority,

(I) the minimum depth needs to be increased to make way for or to avoid any physical constraints; or

(II) in the event of any damage or fault in the underground services or installations may cause damage to the roads or adjoining properties,

the Permittee shall comply with the requirement of laying or placing the underground services and installations at such depth or with such special precautions considered appropriate by the Authority.

(D) Where the Permittee has adequate reasons to justify that underground services and installations should be laid or placed at depth less than the minimum depth quoted in sub-clauses (A) and (B) above, the Permittee shall submit the justifications and obtain the prior written approval of the Authority.

LENGTH OF EXCAVATION

19. The Permittee shall not fence off and open at any time an excavation exceeding a maximum length which was approved during the permit application by the Authority so as to minimize unnecessary inconvenience to the public.

EXISTING WORKS AND INSTALLATIONS

20. (A) Where any alterations to adjacent structures, pipes, utility services and installations are to be carried out by other parties to make way for the Permittee's Work or any part thereof, the Permittee shall be responsible for any necessary liaison and arrangements with the relevant parties for the required alteration work.

(B) (I) Before commencing any excavation for the Work, the Permittee undertaking the Work shall ensure that a layout plan with the relevant details are forwarded to the parties concerned shown in Tables 1 and 2 of Appendix A (and others as may be added from time to time by the Authority) to request for indication of their existing installations in the vicinity. The Permittee shall make all reasonable effort to obtain relevant utility record plans from utility undertakings prior to commencement of excavation.

(II) For the list of "Urgent Works" agreed by the Authority, the Permittee shall obtain the record plans of underground services and installations before commencement of excavation as far as reasonably practicable.

(III) The Permittee shall produce written proof of requesting and/or obtaining such record plans of underground services and installations upon request by the Authority.

(C) (I) Before any excavation including excavation for trial pits, the Permittee shall use suitable non-destructive underground services detectors, in conjunction with any available plans, to determine as accurately as possible the position of underground services in or near the proposed excavation area.

(II) The Permittee shall also carry out any suitable investigation e.g. hand-dug trial pits to ascertain the exact positions and levels of underground services prior to using mechanical plant for road breaking and excavation.

(III) The Permittee shall make copies of such site record photos and investigation results available for inspection upon request by the Authority.

(D) The Permittee shall ensure that site supervising personnel are provided to oversee the operation of mechanical plant, and excavation close to or around underground services and installations is carried out by hand digging method or in accordance with guidelines and codes of practice issued by the relevant authorities.

(E) Where underground installations or services are exposed, the Permittee shall ensure that safe working practices are adopted to prevent damaging the installations and services in accordance with guidelines and codes of practice issued by the relevant authorities.

(F) The Permittee shall take all reasonably practical precautions when passing heavy excavator or compaction roller over underground installations and services with less than 1 metre overburden cover, especially when the road surface is removed, to prevent damaging the installations and services.

(G) The Permittee shall take all reasonable precautions to protect roads, buildings, slopes and any other structures, or services under or above ground adjacent to or within the site from the effects of vibration, undermining, or other earth movements caused by the execution of or as a consequence of his Work. Should any such damage be identified to have been arisen out of the execution or as a consequence of his Work, the Permittee shall immediately contact the relevant parties responsible for the purpose of carrying out the necessary repair.

(H) Where any Work are to be carried out in the vicinity of vehicular underpass or tunnel, the Permittee undertaking the Work shall be responsible for the necessary liaison and arrangements with the Maintenance Authority of the vehicular underpass or tunnel.

21. Where necessary, the Permittee shall take all reasonably practicable steps to find out whether any existing underground installations owned by private parties (e.g. building owners) and laid under wayleave granted by Lands Department will be affected by his Work.

22. (A) Should there be any utility pit covers located within the site to be enclosed by hoardings, the Permittee shall inform the concerned utility undertakings of the existence of the utility pit covers prior to commencement of hoarding erection and produce written proof of such notification upon request by the Authority.

(B) The Permittee shall not erect hoardings including their foundations obstructing the access to such utility pits and opening of the pit covers at all times.

(C) In the event that any utility undertaking is required to carry out emergency repairs/maintenance to any utility within the site, the Permittee shall as soon as possible remove or allow the utility undertaking concerned to remove the portion of the hoardings including its foundation to facilitate the emergency repairs upon requested by the utility undertaking concerned.

23. The Permittee shall keep clear and maintain–

(A) at all times unobstructed access to fire hydrants and valves; and

(B) when required reasonable access to watermains, stormwater drains and sewers, manholes, channels, gullies and other street hardware.

24. The Permittee shall not remove, cover or relocate–

(A) street name plates, street furniture, drainage facilities and mail boxes without the prior consent of the Authority; and

(B) traffic aids without the prior consent of the Commissioner for Transport.

EXCAVATION AFFECTING TREES

25. The Permittee shall not carry out any tree felling without the prior approval of the relevant authorities.

TEMPORARY TRAFFIC ARRANGEMENT AND CONTROL

26. (A) The Permittee shall ensure that lighting, signing and guarding are provided and maintained at all times for any of his Work on carriageway and footway in accordance with the Code of Practice for the Lighting, Signing and Guarding of Road Works[#] and other relevant HyD Standard Drawings as advised by the Authority from time to time

(B) The Permittee shall replace immediately the lighting, signing and guarding equipment if they fall short of being safe, efficient, and effective or the quality standard in accordance with the Code of Practice for the Lighting, Signing and Guarding of Road Works and other relevant HyD Standard Drawings as

[#] The Code of Practice for the Lighting, Signing and Guarding of Road Works may be downloaded from the web site of Highways Department www.hyd.gov.hk

advised by the Authority from time to time.

(C) Unless otherwise stipulated in the relevant standard drawing(s) published by the Transport Department or Highways Department, the Permittee shall ensure that all corners of a sign plate shall be rounded to a radius of not less than 18 mm. The Permittee shall ensure that all edges of a sign plate shall be ground to ensure that they are free from sharp edges, burrs, raggedness and tears.

(D) The Permittee shall not occupy any parking place/space on road for the Work without the prior approval of the Commissioner for Transport.

27. If the Permittee fails to provide lighting, signing and guarding equipment or replace any unsatisfactory equipment to the quality standard in accordance with the Code of Practice for the Lighting, Signing and Guarding of Road Works and other relevant HyD Standard Drawings as advised by the Authority from time to time, the Authority shall have the right to carry out such lighting, signing and guarding as required, and the Permittee shall pay for all expenses incurred by the Authority in doing so.

28. Where temporary traffic light signal is used, the Permittee shall display at the back of the temporary traffic light signal the name and the telephone number of the responsible technician for handling complaint/enquiry. The Permittee shall ensure that the responsible technician shall be able to be contacted by the telephone number at all times.

29. Where the Permittee has to carry out excavation on footpath resulting in diversion of pedestrians onto the carriageway, the Permittee shall follow the arrangement stipulated in the current version of HyD standard drawing no. H1133 as far as reasonably practicable and other relevant HyD Standard Drawings as advised by the Authority from time to time.

30. Where the Authority imposes restricted hours during which the Work under this Permit cannot be carried out, the Permittee shall cease any work, temporarily plate over the excavation referred to in Clause 36 and remove any obstruction such that the full number of the traffic lanes of the carriageway/sufficient footway is available for the safe and free passage of vehicular traffic/pedestrians during the restricted hours.

31. (A) Where the Permittee has to carry out temporary traffic diversion to facilitate his Work, the Permittee shall use and properly maintain proprietary self-adhesive temporary road marking tapes or thermoplastic road markings to delineate the carriageway edge or to divide the carriageway into traffic lanes. The Permittee shall provide the temporary road markings in accordance with the Road Traffic (Traffic Control) Regulations.

(B) The Permittee shall ensure that existing road markings to be replaced by temporary or new road markings are properly covered or removed in accordance with the Code of Practice for the Lighting, Signing and Guarding of Road Works and other relevant HyD Standard Drawings as advised by the Authority from time to time.

32. (A) Where the Permittee has obtained the approval from the Commissioner for Transport to temporarily remove, modify or relocate any existing traffic aids to facilitate commencement of his Work, he shall notify the Commissioner for Transport and HyD–

(I) within 3 working days before commencement of his Work affecting traffic aids; and

(II) within 3 working days upon re-opening to traffic after the affected traffic aids are permanently reinstated.

(B) Such notifications shall be made in accordance with the format required by the Commissioner for Transport.

VEHICULAR AND PEDESTRIAN FACILITIES

33. (A) No operations in connection with the execution of the Work of the Permittee shall interfere unnecessarily or improperly with the convenience of the public or the access to, use and occupation of public or private roads or footpath or right-of-ways to or of properties whether in the possession of Government or of any other person.

(B) The Permittee shall establish and maintain pedestrian and vehicular access, or any temporary diversions in accordance with temporary traffic arrangement plans as agreed by the Commissioner for Transport and/or the Hong Kong Police Force.

(C) The Permittee shall keep clear and maintain unobstructed access to all emergency exits and accesses for emergency vehicles at all times.

34. (A) The Permittee shall properly contain all excavation materials to be used for backfilling by vertical boards or suitable containers within the fenced off site area and prevent them from being washed away by rain if these excavation materials are not removed off site.

(B) Where necessary for the maintaining of pedestrian or vehicular access, the Permittee shall make arrangements to remove such excavated materials from site as deemed necessary for this purpose within the next day of the notification by the Authority unless it is impracticable to do so and an

application with reason for other time limit is lodged by the Permittee with the Authority within the next day of the notification.

(C) The Permittee shall remove materials unsuitable for the purpose of backfilling from the site daily.

35. In the case of excavation along building frontages, the Permittee shall provide temporary pedestrian crossing in accordance with the current version of HyD Standard Drawing no. H1132 or other suitable means approved by the Authority so as to maintain access to adjoining premises.

36. As a facility for the convenience of the public, where excavation(s)/section(s) of excavation on carriageways are plated over during the restricted hours mentioned in Clause 30 or Clause 37(B), steel plates in accordance with the current version of–

(A) HyD Standard Drawing no. H6136 (or H6162 if stipulated by the Commissioner for Transport or the Hong Kong Police Force) for concrete carriageway; or

(B) HyD Standard Drawing no. H6135 for bituminous carriageway; or

(C) other means with prior consent of the Authority

shall be provided to allow the area to be reopened for the reasonably nuisance-free passage of vehicular traffic.

UNATTENDED SITES AND IDLE SITES

37. (A) The Permittee shall carry out the Work with such despatch as is reasonably practicable. The Permittee shall ensure that the excavation is not left open without being actively worked on during any working day. For the purpose of this condition, a working day shall mean the period between 8:00 a.m. and 6:00 p.m. on any day which is not a Sunday nor a General Holiday, or other specified time period(s) on any day permitted under this Permit. Where a site is anticipated to be not being actively worked on for one whole working day or longer with reason, the Permittee shall erect prominent small display board(s) referred to in condition 37(C)(II) and/or display board(s) for motorists referred to in condition 37(C)(III) explaining the reason for the road works not being actively worked on at site. An excavation site which is not being actively worked on and without display boards erected referred to above is defined as unattended site. A site shall not be left unattended.

(B) An excavation site which is not being actively worked on but with display board(s) erected referred to in condition 37(A) is defined as an idle site. A site shall not be left idle unless it is due to reasons included in the current version of HyD Standard Drawing no. H6134 (which contains a hyperlink connected to the List of Standard Reasons for Idle Site on Highways Department's website) or prior approval has been granted by the Authority. For a site anticipated to be idle exceeding 14 consecutive working days under the standard reason(s) in accordance with the current version of HyD Standard Drawing no. H6134, the Permittee shall, unless prior approval has been granted by the Authority, cover the excavation by steel plates referred to in Clause 36 or other suitable means in such a manner so as to allow the area to be reopened for the safe and reasonably nuisance-free passage of vehicular or pedestrian traffic. This requirement also applies where an excavation is to be temporarily decked over without guarding at any time.

(C) (I) Unless prior approval to deviate from this condition has been granted by the Authority, the Permittee shall ensure that standard reason(s) in accordance with the current version of HyD Standard Drawing no. H6134 (which contains a hyperlink connected to the List of Standard Reasons for Idle Site on Highways Department's website) is shown on the display boards referred to in condition 37(A). The reason(s) for idle site displayed shall reflect the genuine situation of the idle site and the works resumption date displayed on site shall be legitimate. The Permittee shall be required to justify the idle site reason(s) and works resumption date displayed on site upon request by the Authority.

(II) In case of the Work affecting area other than carriageway including footway, cycle track, verge, side lane and back lane, the Permittee shall provide small display boards in accordance with the current version of HyD Standard Drawing no. H6133, or the Permittee's drawings approved by the Authority.

(III) In case of the Work affecting carriageway, the Permittee shall provide display boards for motorists or small display boards in accordance with the current version of HyD Guidance Notes RD/GN/024 and HyD Standard Drawing no. H6133 or H6138, or the Permittee's drawings approved by the Authority.

(IV) Where a site is actively worked on, the erection of display board(s) referred to in condition 37(A) is prohibited to avoid misleading the public.

(D) The Authority reserves the right to take over the site after giving due notice to the Permittee if the excavation remains open without being worked on and without any reason being given to and accepted by the Authority. The Authority shall not be liable for any claim from the Permittee for any cost or loss thus incurred.

SITE CLEANLINESS

38. (A) The Permittee shall ensure that litter and waste generated from the Work or otherwise be removed from the site and properly disposed of daily.

    (B) The Permittee shall ensure that overspill or wash-away of excavation and construction materials onto adjacent land be prevented as far as reasonably practicable. The Permittee shall remove and clean up immediately the overspill or wash-away materials in the event of such occurrence arisen out of the execution or as a consequence of his Work.

    (C) The Permittee shall take adequate anti-mosquito measures to prevent mosquito breeding places. Construction equipment and materials likely to be filled up with water shall be stored, covered or treated in such a manner that water will not be retained.

    (D) The Permittee shall take adequate measures such as use of screens, dust sheets, tarpaulins, water spraying or other dust suppression methods agreed by the Authority to prevent dust generated from the execution or as a consequence of his Work. Materials, including earthwork materials, from which dust will be generated when being transported to or from the site shall be sprayed with water or covered.

BACKFILLING AND REINSTATEMENT

39. The Permittee shall carry out at his own expense–

    (A) backfilling to his excavation made under this Permit;

    (B) permanent reinstatement to his excavation made under this Permit, unless otherwise advised by the Authority; and

    (C) permanent reinstatement for the full footway width or for the full lane width of carriageway in the newly constructed streets specified under Section 18C of the Land (Miscellaneous Provisions) Ordinance, and/or to reinstate the excavation to the standards of the Authority specified in the current version of HyD Guidance Notes No. RD/GN014, which the Authority has the right to require the Permittee to carry out, depending on the extent of excavation and the practice of the Authority.

    (D) remedial works for any defect and/or unsatisfactory workmanship found by the Authority in the backfilling to excavation and permanent reinstatement and the Permittee shall register and apply in writing or via HyD's XPMS, if required, within 2 months from the date of rejection from the Authority for a new permit to carry out such remedial works.

40. The Permittee shall carry out reinstatement of affected street furniture, traffic aids, road markings and any other installations to the conditions existing before commencement of his Work unless otherwise agreed by the Authority. In the event that the road is opened to traffic before permanent thermoplastic road markings are laid, the Permittee shall use proprietary self-adhesive road marking tapes for the temporary reinstatement of road markings, and shall maintain all such temporary road markings until the permanent thermoplastic road markings are completed. The Permittee shall provide the temporary road markings in accordance with the Road Traffic (Traffic Control) Regulations.

41. (A) The Permittee shall ensure that the excavation is backfilled with fine fill material as defined in the current version of the General Specification for Civil Engineering Works[@] (GS) published by the Government of the Hong Kong Special Administrative Region in compacted layers not exceeding 150 mm thick. The Permittee shall compact each layer of backfill material with a power rammer, vibratory plate or vibratory roller. Except in road-side slopes, the relative compaction of the compacted backfill, either in terms of the in-situ dry density and maximum dry density or in terms of in-situ bulk density and maximum converted bulk density, determined in accordance with the GS clauses 6.61 to 6.70 (which make reference to the Geospec 3[@]), shall not be less than 98% for the levels within 200 mm of formation level nor 95% for other levels of backfill. For the backfill in road-side slopes, the relative compaction shall not be less than 95% throughout.

    (B) The Permittee shall ensure that the backfill materials do not contain broken concrete, bricks, clay, bituminous material, and materials susceptible to spontaneous combustion, perishable materials or debris. Backfill material shall not exceed 75 mm maximum particle size.

    (C) The Permittee shall ensure that suitable backfill materials are carefully placed and compacted by hand-rammers to obtain a relative compaction of at least 85% throughout, or in accordance with the approved Permittee's specifications, and up to the level of–

    - 150 mm above the crown of the utility ducts, cables or pipes;
    - 150 mm above the roof of the chambers, junction boxes or other installations; or

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[@] General Specification for Civil Engineering Works and its corrigenda, as well as Geospec 3 may be downloaded from the web site of Civil Engineering and Development Department www.cedd.gov.hk

- 300 mm above the crown of water pipes.

(D) The Permittee shall ensure that backfill materials adjacent to gas plant and watermains are suitably compacted to give comparable support and protection to that provided before excavation. No power compaction shall take place until 300mm cover of selected fine fill has been suitably compacted by hand-rammers.

42. Unless otherwise advised by the Authority, the Permittee shall ensure that reinstatement (including temporary and permanent reinstatement) of the streets is in compliance with the standards given in the current version of–

(A) HyD Guidance Notes No. RD/GN014 – Permanent Trench Reinstatement; and

(B) HyD Standard Drawings referred to in the HyD Guidance Notes No. RD/GN014.

43. Unless otherwise advised by the Authority, the Permittee shall reinstate–

(A) concrete staircase to the original details, dimensions, lines, levels etc. The edges of reinstatement shall be in a saw-cut straight line.

(B) masonry steps staircase and granite kerbs to the original state. Masonry steps and granite kerbs shall be taken up in whole piece with extreme care and properly stored for re-use.

44. (A) Unless exempted in the approved work list by the Authority or prior approval has been granted by the Authority, the Permittee shall submit to the Authority within 2 months from the date of submission of a Completion Notice referred to in Clause 46 the original copy or certified true copy of the test certificate/report on–

(I) for backfill to carriageway and footpath,

(a) the test results of satisfactory compaction of the backfill as well as compliance tests for granular sub-base, lean concrete, concrete or bituminous materials; and

(b) the moisture content and relative compaction test results of at least three samples of the top layer compacted backfill.

(II) for reinstatement of bituminous carriageway and cycle track,

(a) the tests of determining the particle size distribution, bitumen content and Rice's specific gravity of each batch of the bituminous materials in accordance with the GS; and

(b) the tests of determining the air void content of the cores taken from each batch of compacted bituminous materials in accordance with the GS.

(III) for reinstatement of concrete carriageway and footpath,

(a) the test of determining the 28-day compressive cube strength of the concrete in accordance with the GS

(B) The tests referred to in sub-clauses (A) (I), (II) and (III) above shall be performed by a laboratory accredited to carry out such particular tests under the Hong Kong Laboratory Accreditation Scheme.

(C) For any non-compliance found in the test results, the Permittee shall carry out the necessary remedial works at his own expense and apply, within 2 months from the date of rejection letter from the Authority, for a new permit to carry out such remedial works.

45. (A) Unless otherwise agreed by the Authority, the Permittee shall ensure that temporary reinstatement of pavement type is in accordance with the current version of HyD Standard Drawing H1123.

(B) For excavation in pavement of paving slab/block construction where permanent reinstatement is to be carried out by the Authority, the Permittee shall ensure that–

(I) the trench is backfilled and compacted up to the formation level; and

(II) an advance notice of 3 working days before completion of backfilling is given to the Authority for permanent reinstatement.

(C) Permanent reinstatement, with its extent determined depending on the extent of excavation and the practice of the Authority, carried out by the Authority shall be at the expense of the Permittee.

COMPLETION OF THE EXCAVATION

46. (A) Without prejudice to Clauses 47 and 48, where–

(I) temporary or permanent reinstatement as required under this Permit is completed; and

(II) all equipment and surplus materials are cleared away and removed from the site,

the Permittee shall notify the relevant CHE of HyD the completion of the excavation by facsimile or via HyD's XPMS by submitting a Completion Notice stating that the site is ready for taking over by the Authority for permanent reinstatement or is reopened to vehicular or pedestrian traffic, as the case may be.

(B) This Permit shall then expire on the date of notification of the completion of the excavation (i.e. the date of submission of a Completion Notice) to the Authority.

(C) The permittee shall submit the Completion Notice to the relevant CHE of HyD by facsimile or via HyD's XPMS within 14 working days from the expiry date of this Permit or its extension, if any, whichever the later.

MAINTENANCE AND DEFECTS LIABILITY

47. In the case of permanent reinstatement by the Authority, the Permittee shall remain fully responsible for the maintenance of the backfilling and the temporary reinstatement until a period of 14 working days has elapsed from the date of submission of a Completion Notice.

48. In the case of subsidence of the permanently reinstated pavement (permanent reinstatement by either the Authority or the Permittee) or deterioration in the permanent reinstatement itself (permanent reinstatement by the Permittee) within 12 months from the date of submission of a Completion Notice, the Permittee shall carry out the necessary remedial works at his own expense, unless the Permittee can prove that the defect was caused by a third party. Where necessary, the Authority will carry out the remedial work and the Permittee shall pay for all expenses incurred by the Authority pursuant to Section 10Q of the Land (Miscellaneous Provisions) Ordinance.

AMENDMENTS TO CONDITIONS AND SPECIFICATIONS

49. During the currency of the Permit, the Authority reserves the right to amend and add to the Conditions and the specifications in writing as necessary to suit the site conditions so that the interest of the public can be protected in a more effective way.

A NOTE TO THE PERMITTEE AND THE NOMINATED PERMITTEE

1. In accordance with Section 4 of the Prevention of Bribery Ordinance Cap. 201, any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body.

shall be guilty of an offence.

2. In accordance with Section 2 of the Prevention of Bribery Ordinance Cap. 201, "Advantage" means-

(a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;

(b) any office, employment or contract;

(c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;

(d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;

(e) the exercise or forbearance from the exercise of any right or any power or duty; and

(f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e).

3. Notwithstanding the definition of "Advantage" in Section 2 of the Prevention of Bribery Ordinance Cap. 201, in order to prevent HyD staff from putting themselves into what may prove to be a compromising situation, no entertainment proffered by any person who have official dealings with the department other than that normally associated with official contacts may be accepted by HyD staff without prior approval.

Table 1

Hong Kong Island :	*Kowloon and New Territories :*
The Hongkong Electric Co., Ltd.	CLP Power Hong Kong Ltd.
Chief Engineer/Lighting, Highways Department	Chief Engineer/Lighting, Highways Department
PCCW-HKT Telephone Limited	PCCW-HKT Telephone Limited
The Hong Kong & China Gas Co. Ltd.	The Hong Kong & China Gas Co. Ltd.
Rediffusion (H.K.) Ltd.	Rediffusion (H.K.) Ltd.
Hutchison Global Communications Ltd.	Hutchison Global Communications Ltd.
New World Telecommunications Ltd.	New World Telecommunications Ltd.
Wharf T & T Ltd.	Wharf T & T Ltd.
Hong Kong Cable Television Ltd.	Hong Kong Cable Television Ltd.
Water Supplies Department	Water Supplies Department
Drainage Services Department	Drainage Services Department
Transport Department	Transport Department
Hong Kong Broadband Network Limited	Hong Kong Broadband Network Limited
Towngas Telecommunication Fixed Network Limited	Towngas Telecommunication Fixed Network Limited
Hongkong Tramways Ltd.	

Table 2

(i)	Fire Services Department
(ii)	The relevant Chief Leisure Manager of Leisure and Cultural Services Department (for excavation affecting roadside trees falling within 2.5m of the tree trunk)
(iii)	SPSM/TS2, Property Services Branch, Architectural Services Department, APB Centre, 9 Sung Ping Street, Hunghom, Kowloon (for excavation on footpath adjacent to government properties or within 3m adjacent to government properties if not on footpath)
(iv)	MTR Corporation Limited (for excavation within railway protection zones)
(v)	MTR Corporation Limited (for excavation in the vicinity of the Light Rail Transit System)
(vi)	Electrical and Mechanical Services Department (for excavation located within 30m of a signalised junction)
(vii)	Country and Marine Parks Authority (for excavation located within country park areas)
(viii)	Lands Department and Government Property Agency (for Kai Tak area only)
(ix)	The Hongkong Electric Co., Ltd. (for excavation on Lamma Island)

ADDITIONAL CONDITIONS OF PERMIT (Sample)

COMPLIANCE WITH ADDITIONAL CONDITIONS OF PERMIT

1. (A) Subject to sub-clause (B), the Permittee shall comply with all of these Additional Conditions of Permit.

   (B) Where there is a Nominated Permittee in relation to this Permit pursuant to Section 10G of the Land (Miscellaneous Provisions) Ordinance, the Permittee and the Nominated Permittee shall comply with the Additional Conditions of Permit as follows–

   (I)

Additional Conditions of Permit No.	*To be complied with by*
(a)	The Permittee
(b)	The Nominated Permittee
(c) Any conditions other than (a) and (b) above	Both the Permittee and the Nominated Permittee

   (II) The Permittee referred to in these Additional Conditions of Permit shall then mean the Permittee, the Nominated Permittee or both the Permittee and the Nominated Permittee as the case may be in accordance with sub-clause (B)(I) above.

Annex III
(Para 3.8)

本署檔號 Our Ref.:
來函檔號 Your Ref.:
電話 Tel.:

<u>By e-mail and fax</u>

[Date]

[Applicant's name and corresponding address]

Dear Sir/Madam,

<u>Application for Suspension of Metered Parking Spaces in [District]</u>

I refer to your letter dated ____ applying for temporary suspension of the metered parking spaces on [location of parking spaces in district] in association with the [brief description of road works and Plan ID(if applicable)].

In accordance with the provision of regulation 5(3) of Road Traffic (Parking) Regulations (Cap. 374C), I hereby give an approval that the following metered parking spaces will be suspended from [start time] on [start date] to [end time] on [end date] to facilitate the above road works:

<u>Location(s)</u>	<u>Parking Meter Number(s)</u>

Your Company is required to comply with the Approval Conditions for Temporary Suspension of Parking Spaces for Road Works, and a copy of which is enclosed. Please be reminded that you should notify this Department via email or fax for extension of the above suspension period of the parking spaces as early as possible, and it should not be less than 5 working days.

If you have enquiries on the above, please contact the undersigned at [office telephone number of Transport Officer in the respective district].

Yours faithfully,

( )
for Commissioner for Transport

c.c.
<u>External</u>

Regional Traffic Police	by fax:
District Police	by fax:
CHE/R&D	by fax: 2714 5290 (Ref: Plan ID XXXXXXX)
DO/[District]	by fax:

<u>Internal</u>
E/[District]
STO/[District]
TO/[District]

Approval Conditions for Temporary Suspension of Parking Spaces for Road Works

1. Having obtained Transport Department's letter of approval and with the support of Police Road Management Office's Road Works Advice or indication that a Road Works Advice application is pending, the Applicant shall confirm to Transport Department via email or fax not later than 3 working days in advance of the scheduled start date that suspension shall be proceeded with. If the Applicant's confirmation is not received in time, Transport Department may withdraw the approval of suspension and cancel the scheduled suspension. If there is any change in the scheduled start date, the Applicant shall inform Transport Department via email or fax not later than 5 working days in advance of the scheduled suspension start date unless in exceptional circumstances.

2. The Applicant shall provide to Transport Department at least 1 and not more than 3 photos taken on the suspension start date showing a wide-angle view of the progress of works and the affected parking space(s), and thereafter during the suspension period at a frequency of once a week for suspension periods exceeding two weeks. For easy identification, each photo shall indicate the Plan ID, the Form No. (if available), street name and location related to the affected parking space(s), and shall be sent via email on the day the photo was taken or the next working day.

3. If works do not start as scheduled or are no longer in active progress, Transport Department will decide whether approval of suspension shall be withdrawn.

4. If works necessitating suspension of parking space(s) are completed earlier than originally scheduled, the Applicant shall report to Transport Department immediately via email or fax for Transport Department to cancel the suspension of the affected parking space(s) as soon as possible.

5. When delay in completion of works is foreseen by the Applicant, the Applicant shall inform Transport Department via email or fax not later than 5 working days in advance of the scheduled suspension end date unless in exceptional circumstances, for Transport Department to decide whether the approved period of suspension of the affected parking space(s) shall be extended.

6. The Applicant shall exercise due diligence to ensure that during the suspension period, the site shall be active with progress on every working day. In the event of non-compliance, Transport Department may withdraw the approval of suspension by notifying the Applicant via email.

Notes to Applicants

For road works necessitating temporary suspension of parking space(s), the Applicant shall submit an application to Transport Department at least 15 working days in advance of the scheduled suspension start date. Transport Department will normally reply within 10 working days.

Email address/Fax No. for correspondence on parking space suspension matters: